

November 12, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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Seattle, Washington 98104
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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Transportation File no. **V-2491**
Proposed Ordinance no. **2004-0404**

JEROLD ULLERY
Road Vacation Petition

Location: A portion of 64th Avenue Northeast in the vicinity of
Northeast 130th Place

Petitioner: **Jerold Ullery**
12963 – 64th Avenue Northeast
Kirkland, WA 98034
Telephone: (425) 821-3768

King County: Department of Transportation, Road Services Division, *represented by*
Dennis Gorley
201 S. Jackson Street
Seattle, WA 98104-3856
Telephone: (206) 296-6522
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2491 was received by the Examiner on September 8, 2004.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2491 was opened by the Examiner at 10:35 a.m., on September 22, 2004, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104, and was continued for administrative purposes. The Affidavit of Publication was received on October 13, 2004. Supplemental e-mail reports and additional exhibits were received on October 26, November 8 and November 9, 2004. The hearing was closed on November 9, 2004.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	A portion of 64 th Avenue Northeast in the vicinity of Northeast 130 th Place
Right of way classification:	"C"
Area:	2,845 sq. ft.
Compensation:	\$18,363.03
2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the September 22, 2004, public hearing and the statement of facts contained in Proposed Substitute Ordinance No. 2004-0404. The Department's report and Proposed Substitute Ordinance No. 2004-0404 will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.
3. The Petitioner initially requested vacation of the entire portion of 64th Avenue Northeast abutting lot 4 of King County Short Plat L95S0065 (12963 – 64th Avenue Northeast, the Petitioner's property). That area included a portion of the improved right-of-way of 64th Avenue Northeast that terminates in a cul-de-sac adjacent to 12963 – 64th Avenue Northeast.

Review of the proposal by the King County Roads Division and the Water and Land Resources Department identified that the proposed vacation area was partially improved and that a storm water catch basin appeared to be within the proposed vacation area. In addition, easements were identified as necessary to allow for the continued provision of services by Verizon and Northshore Utilities District to properties in the area. The reviewing county agencies recommended that the area proposed for vacation be reduced to exclude the existing cul-de-sac.

In response to the agency reviews and comments, the area proposed to be vacated was revised by the Petitioner and a survey was provided. The area now proposed to be vacated is limited to that portion of the southerly half of 64th Avenue Northeast lying northwesterly of the "as-built" cul-de-sac having a radius of 27.5 feet. This revision has satisfied the concerns of the reviewing agencies, Verizon and Northshore Utilities District.
4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.

RECOMMENDATION:

APPROVE proposed Substitute Ordinance No. 2004-0404, a copy of which is attachment 3 to this report and recommendation.

RECOMMENDED this 12th day of November, 2004.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 12th day of November, 2004, to the following parties and interested persons:

Comcast
Attn: Sherill Ulery
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Ioan & Dorina Morar
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Nancy Gordon
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KC DOT/Rd. Svcs. Div.
MS KSC-TR-0222

Robert Nunnenkamp
KC Parks & Recreation
MS KSC-NR-0700

Lydia Reynolds-Jones
KC DOT/RD SERV.
MS KSC-TR-0231

Charlie Sundberg
Office of Cultural Res.
Landmarks & Heritage Prog.
MS STR-CR-0200

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before* **November 29, 2004**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before* **December 3, 2004**.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE SEPTEMBER 22, 2004, PUBLIC HEARING ON DEPARTMENT OF
DEVELOPMENT TRANSPORTATION FILE NO. V-2491.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing was Dennis Gorley, representing the Department.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Transportation staff report for 9/22/04
- Exhibit No. 2 Petition transmittal letter from Anne Noris dated 10/16/03
- Exhibit No. 3 Letter of request from Jerold Ullery dated 10/15/03 with attached Petition
- Exhibit No. 4 Copy of filing fee – check no. 1019 from petitioners
- Exhibit No. 5 Vicinity map of proposed vacation area, Thomas Bros. page 505

- Exhibit No. 6 Plat map of Lake Park to the City of Seattle
- Exhibit No. 7 Map depicting proposed vacation area
- Exhibit No. 8 Letter to petition dated 4/28/04 re: revised vacation area with attached revised petition
- Exhibit No. 9 Revised Petition for Vacation dated 5/3/04
- Exhibit No. 10 Letter from Petitioner dated 6/15/04 re: survey
- Exhibit No. 11 Letter from Petitioner dated 7/12/04 re: payment
- Exhibit No. 12 Copy of compensation check no. 1033 from Petitioners and receipt
- Exhibit No. 13 Letter from Paulette Norman dated 7/13/04 re: compensation
- Exhibit No. 14 Compensation worksheet dated 7/13/04
- Exhibit No. 15 Ordinance transmittal letter to Council Chair dated 8/16/04
- Exhibit No. 16 Proposed ordinance no. 2004-0404
- Exhibit No. 17 Notice of hearing from the Clerk of the Council
- Exhibit No. 18 Affidavit of Posting dated 9/01/04
- Exhibit No. 19 Letter to the Council Clerk dated 9/03/04
- Exhibit No. 20 Revised ordinance

The following exhibit was entered into the record on October 13, 2004:

- Exhibit No. 21 Affidavit of Publication

The following exhibit was admitted on October 26, 2004:

- Exhibit No. 22 Memorandum dated October 22, 2004 from Dennis Gorley, with attached email correspondence from Verizon

The following exhibit was admitted on November 8, 2004:

- Exhibit No. 23 Memorandum dated November 8, 2004 from Dennis Gorley concerning Northshore Utility District easement request

The following exhibit was admitted on November 9, 2004:

- Exhibit No. 24 Copy of email dated September 23, 2004, from George Matote at Northshore Utility District

JNOC:gao
V-2491 RPT

Attachments